



DEPARTMENT OF LABOR

Benefits Review Board

20 CFR Part 802

RIN 1290-AA35

Rules of Practice and Procedure

AGENCY: Benefits Review Board, Department of Labor.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Department of Labor is reopening for 15 days the comment period on the January 11, 2021, notice of proposed rulemaking that would have required electronic filing (e-filing) and acceptance of electronic service (e-service) for persons represented by attorneys or non-attorney representatives unless good cause is shown justifying a different form of filing.

DATES: The comment period for the proposed rule published at 86 FR 1857 on January 11, 2021, is reopened for 15 days and closes on [INSERT DATE 15 DAYS FROM OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Regulatory Identification Number (RIN) **1290-AA35**, only by the following method: Electronic Comments. Submit comments through the Federal eRulemaking Portal <http://www.regulations.gov>. To locate the rule, use docket number DOL-2020-0013 or key words such as “Administrative practice and procedure,” “Black lung benefits,” “Longshore and harbor workers,” or “Workers’ compensation.” Follow the instructions for submitting comments. All comments must be received by 11:59 p.m. on the date indicated for consideration in this rulemaking.

Instructions: All comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. Therefore, the Department recommends that commenters safeguard their personal information by not including

social security numbers, personal addresses, telephone numbers, or email addresses in comments. It is the responsibility of the commenter to safeguard personal information.

If you need assistance to review the comments or the proposed rule, the Department will consider providing the comments and the direct final rule in other formats upon request. For assistance to review the comments or obtain the direct final rule in an alternate format, contact Mr. Thomas Shepherd, Clerk of the Appellate Boards, at (202) 693-6319.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Shepherd, Clerk of the Appellate Boards, at (202) 693–6319 or Contact-Boards@dol.gov. Individuals with hearing or speech impairments may access this telephone number by TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: In the concurrent direct final rule (DFR) published at 86 FR 1862, the Department stated that if a significant adverse comment was submitted by February 10, 2021, the Department would publish a timely withdrawal in the Federal Register informing the public that the DFR will not take effect. The Department also issued an identical Notice of Proposed Rulemaking (NPRM) on the same day (86 FR 1857). The Department received significant adverse comment prior to the close of the comment period on the conforming Office of Administrative Law Judges (OALJ) rulemaking (86 FR 1862) in which commenters noted that they also practice before the Benefits Review Board (BRB). Therefore, out of an abundance of caution, the Department withdrew the DFR, effective February 25, 2021. The Department also received a request to extend the comment period of the OALJ rule and is therefore reopening the comment period for the BRB rule for 15 days. In issuing a final action, the Department will consider comments received on the DFR and NPRM during the initial comment period as well as comments received during this subsequent comment period. The Department will also provide at least 30 days’ notice between promulgating a final rule that requires e-filing and the date on which e-filing will become mandatory under such a rule. Furthermore, the Department notes that several comments raised concerns with the Department’s

electronic filing system and not the requirements of the proposed or direct final rules. To better understand and address these concerns, the Department has scheduled listening sessions for users to provide feedback on the system. Information about those sessions is posted at <https://efile.dol.gov>.

Milton A. Stewart,
Acting Secretary of Labor.

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